

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:	Chapter 13 Case
Mitchell Kip Helling,	Case Number 23-41921
Debtor(s).	

**NOTICE OF HEARING AND MOTION
FOR RELIEF FROM STAY**

To: The debtor(s) and other entitles specified in local Rule 9013-3(a).

1. Mitchell Helling, by their undersigned attorney, moves the Court for relief requested below and gives Notice of Hearing within.

2. The Court will hold a Hearing on this motion at 2:30 p.m. on March 28, 2024, at The United States Courthouse, in Courtroom No. 7 West, 300 South Fourth Street, Minneapolis, MN.

3. Any response to this motion must be filed and served no later than Thursday, march 21, which is seven days before the date set for hearing (including weekends and holidays). UNLESS A RESPONSE OPPOSING THIS MOTION IS TIMELY FILED, THE COURT MAY GRANT THE APPLICATION WITHOUT A HEARING.

4. Pursuant to Local Rule 4001-1, unless a response to this motion is filed, the Court may, in its discretion, enter an order granting relief from the stay without a hearing.

5. The Petition commencing this Chapter 13 Case was filed on February 14, 2024. This Court has jurisdiction over this motion pursuant to 28 USC Sec. 1334 and 157(A), Local Rule 1070-1, 11 USC Sec. 362(D) and applicable rules.

6. This motion arises under 11 U.S.C. § 362 and Federal Rule of Bankruptcy Procedure 4001. This motion is filed under Federal Rule of Bankruptcy Procedure 9014 and Local Rules 9013-1- 9019-1. The movant requests relief from the automatic stay with respect to a divorce action. The movant requests said relief be effective immediately notwithstanding Federal Rule of Bankruptcy Procedure 4001(a)(3).

7. Debtor, Mitchell Helling seeks relief from the automatic stay and discharge injunction, for the purpose of pursuing a dissolution of marriage action, without prejudice to the trustee or estate's rights pursuant to 11 U.S.C. [§ 541\(a\)\(5\)\(B\)](#).

WHEREFORE, Mitchell Kip Helling respectively moves the Court for an order modifying the automatic stay of Sec. 362 Subd. (A) so as to permit Mitchell Kip Helling to proceed with a dissolution action, and for such other and further relief as the Court finds just and equitable.

Dated: March 1, 2024

/e/Timothy Theisen
Timothy C. Theisen
Dissolution Attorney for Movant(s)
229 Jackson Street, Suite 105
Anoka, MN 55303
Atty. Reg. No 151841

**UNITED STATES BANKRUPTCY COURT
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**MEMORANDUM IN SUPPORT OF
MOTION FOR RELIEF FROM STAY**

In this case, debtor has commenced a dissolution action against his wife, service was made February 26th 2024, and nothing has been filed as of yet in the dissolution action.

This case was originally filed as a Chapter 7, and an order approving a motion to convert to chapter 13 was granted February 15th, amended schedules and plan were filed February 21st, and the chapter 13 341 meeting is scheduled for March 13th.

Debtor's amended schedule J indicates he estimates paying \$500/month in attorney fees for a year; to the extent disclosure is required, he has paid \$2000 to undersigned counsel for the divorce, to date.

DISCUSSION

Pursuant to 11 U.S.C. Sec. 362(d)(1), the Court shall grant relief from the automatic stay "for cause." "Cause" exists to lift the automatic stay to allow a state divorce court to proceed with equitable distribution of property between a debtor and spouse. *In re: Dryja*, 2010 WL 1241545 (Bankr.D.Colo.)

Respectfully submitted

Dated: March 1, 2024

/e/ Timothy Theisen
Timothy Theisen
Dissolution Attorney for Movant Mitchell Helling
229 Jackson Street, Suite 105
Anoka, MN 55303
Atty. Reg. No. 213469

VERIFICATION

I, Mitchell Helling, Debtor herein, the movant(s) named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Dated: February 28, 2024

/e/Mitchell Helling

REVISED 12/15

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re
Mitchell Kipp Helling

Case No. **23-41921**

Debtor(s).

SIGNATURE DECLARATION

- ☐ PETITION, SCHEDULES & STATEMENTS
☐ CHAPTER 13 PLAN
☐ VOLUNTARY CONVERSION, SCHEDULES AND STATEMENTS
☐ AMENDMENT TO PETITION, SCHEDULES & STATEMENTS
☐ MODIFIED CHAPTER 13 PLAN
☒ OTHER (PLEASE DESCRIBE: Memorandum in support of Motion for Relief from Stay)

I [We], the undersigned debtor(s) or authorized representative of the debtor, make the following declarations under penalty of perjury:

1. The information I have given my attorney for the electronically filed petition, statements, schedules, amendments, and/or chapter 13 plan, as indicated above, is true and correct;
2. The Social Security Number or Tax Identification Number I have given to my attorney for entry into the court's Case Management/Electronic Case Filing (CM/ECF) system as a part of the electronic commencement of the above-referenced case is true and correct;
3. **[individual debtors only]** If no Social Security Number was provided as described in paragraph 2 above, it is because I do not have a Social Security Number;
4. I consent to my attorney electronically filing with the United States Bankruptcy Court my petition, statements and schedules, amendments, and/or chapter 13 plan, as indicated above, together with a scanned image of this Signature Declaration;
5. My electronic signature contained on the documents filed with the Bankruptcy Court has the same effect as if it were my original signature on those documents; and
6. **[corporate and partnership debtors only]** I have been authorized to file this petition on behalf of the debtor.

Date: 3/4/24

X 
Signature of Debtor 1 or Authorized Representative

X _____
Signature of Debtor 2

Mitchell Kipp Helling
Printed Name of Debtor 1 or
Authorized Representative

Printed Name of Debtor 2

**UNITED STATES BANKRUPTCY COURT
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In Re:

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UNSWORN CERTIFICATE OF SERVICE

I, Kelley Rasmussen, declare under penalty of perjury that on March 4, 2024, I served the Notice of Hearing, Memorandum of Law, and Notice of Appearance, as Attorney for the Movant by US Mail to the following:

Tamara Tatiana Snack
8001 Rhode Island Circle
Bloomington, MN 55438

Dated: March 4, 2024

Signed: /e/ Kelley Rasmussen
Kelley Rasmussen

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

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Case Number 23-41921

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ORDER GRANTING RELIEF FROM STAY

The above-entitled matter came before the undersigned United States Bankruptcy Judge on the Debtors lift stay motion.

Appearances, if any, were noted in the minutes.

Upon the foregoing record,

IT IS ORDERED:

The automatic stay is hereby lifted so as to permit a debtor's dissolution action to move forward in state court.

Dated: _____

Michael E. Ridgway
United States Bankruptcy Judge